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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,189	06/27/2003	Van Acosta Hamilton	Hamilton	7616

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EXAMINER

MILLER, JONATHAN R

ART UNIT PAPER NUMBER

3653

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/609,189	Applicant(s) HAMILTON, VAN ACOSTA	
	Examiner Jonathan R. Miller	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

HC

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 – 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 2 recites the limitation "said means for retaining an object" in lines 1 and 4. There is insufficient antecedent basis for this limitation in the claim.
4. Claim 2 recites the limitation "said trailerable line-pump" in line 3. There is insufficient antecedent basis for this limitation in the claim.
5. With regards to claim 6, which further defines the planar member, the Examiner believes the language is confusing. How can a planar member have upraised sides on both ends and still be called a planar member?
6. Claim 7 recites the limitation "said means for retaining an object" in line 2. There is insufficient antecedent basis for this limitation in the claim.
7. Claims 8 – 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 8 recites the limitation "said trailerable pump" in line 16. There is insufficient antecedent basis for this limitation in the claim.

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9. Additionally, with regards to claim 8, the language: "... includes means for applying a force sufficient to urge said second end of said planar member toward said hopper ..." is believed to be inaccurate. As understood by the Examiner, the springs provide a rebound force to that of placing material upon the screen, i.e. the loading of the screen provides the force to move the screen toward the hopper, and the means for applying a force move the screen away from the hopper. This renders the claim indefinite. This also applies to claim 10

10. Furthermore, with regards to claim 8, which further defines the planar member, the Examiner believes the language is confusing. How can a planar member have upraised sides on both ends and still be called a planar member?

11. Claim 9 recites the limitation "said longer parallel leg" in line 5. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 9 recites the limitation "said lower leg" in lines 6. There is insufficient antecedent basis for this limitation in the claim.

13. Additionally, claim 9 lacks a proper operator (comprises, consisting of, consisting essentially of) -- "includes" is not definite.

14. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

15. Claims 4 – 6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. With regards to claim 4,

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how does the invention operate if the openings of the screen are smaller than the openings of the grate? How does the invention operate in this configuration?

Claim Rejections - 35 USC § 102

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 1 – 3 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Barry.

The reference discloses a means for preventing the passage of an object (23). The other language of the claim – element (b) – pertaining to the placement of the screen is intended use, and not given patentable weight.

18. With regards to claim 2, the reference further discloses the screening means hingedly attachable (28, Figure 2), and means for urging a second end of said means for retaining an object toward said hopper. The means for urging is designated by 38. The outflow from element 38 flows down the chutes 16 and 18 and onto the screen. This action inherently urges a second end of said means for retaining an object toward said hopper. What the screen is attached to is intended use, fails to further limit the screen, and is not given patentable weight.

19. With regards to claim 3, the reference discloses a pair of loops (28) about which the screen is adapted to pivot, and said means for urging is inherently adapted to permit a pivoting of the screen about the axis passing through the pair of loops.

20. With regards to claim 7, the reference further discloses the means for urging inherently include elastomeric means. Examiner contends that the means for urging as disclosed in the

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reference comprises the hose elements and the pump elements, and these elements inherently include elastomeric components.

Conclusion

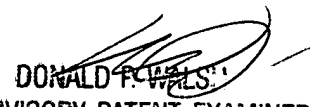
21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (571) 272-6940. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571) 272-6944. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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